

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division



RODERICK DEMEATRICE OAKS, #1395197,

Petitioner,

v.

ACTION NO. 2:13cv674

HAROLD CLARK,  
Director,

Respondent.

**FINAL ORDER**

Petitioner, a Virginia inmate, has submitted a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. ECF No. 1. The petition alleges a violation of federal rights pertaining to Petitioner's conviction on September 13, 2010, in the Circuit Court for James City County/Williamsburg for robbery. As a result of the conviction, Petitioner was sentenced to serve ten years in the Virginia penal system.


The petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation filed June 2, 2014, recommends dismissal of the petition as barred by the statute of limitations. The Court has received no objections to the Report and Recommendation and the time for filing objections has expired. On June 23, 2014, Petitioner filed a Notice of Appeal, appealing the Report and Recommendation to the Court of Appeals for the Fourth Circuit. ECF No. 10. However, the Report and Recommendation is not a final appealable order under 28 U.S.C. § 1291.

The Court does hereby accept the findings and recommendations set forth in the Report and Recommendation, and it is therefore ORDERED that Respondent's Motion to Dismiss (ECF No. 4) is GRANTED, and the petition is DENIED and DISMISSED as barred by the federal statute of limitations. It is further ORDERED that judgment be entered in favor of Respondent.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such judgment.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for Respondent.

  
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Raymond A. Jackson

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United States District Judge

Raymond A. Jackson

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia  
September 4, 2014